

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MICHAEL GAINES,

Plaintiff,

- against -

NASSAU COUNTY HEALTH CARE  
CORPORATION,

Defendant.

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ROSLYNN R. MAUSKOPF, United States District Judge.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**  
18-CV-2109 (RRM) (GRB)

Plaintiff Michael Gaines, proceeding *pro se*, brings this action alleging that the Nassau County Health Care Corporation violated his rights when it provided a blood specimen to the Nassau County District Attorney's Office. (Am. Compl. (Doc. No. 14) at 4.) After defendant answered the amended complaint, the parties were ordered by Magistrate Judge Gary R. Brown to complete discovery by July 22, 2019, and to submit a proposed joint pretrial order by August 22, 2019. (Order of 1/22/2019.)

Since the date of that Order, Gaines has three times failed to provide defense counsel with the information necessary to complete the pretrial order, or to separately file his portion of the pretrial order, by the date it was due. (Doc. Nos. 29, 33, 37.) Each time, Magistrate Judge Brown granted Gaines an extension of time to provide the necessary information and warned Gaines that failure to provide the necessary information might result in a recommendation that the action be dismissed for failure to prosecute. (Order of 8/21/2019; Order of 10/24/2019; Order of 11/21/2019.) In the third Order, dated 11/21/2019, Magistrate Judge Brown gave Gaines a "final warning to file [his] portion of the pre-trial order by November 29, 2019," and noted that "[f]ailure . . . to file his portion of the pre-trial order by the above deadline w[ould]

result in a sua sponte report and recommendation that the case be dismissed for failure to prosecute.” This third Order was mailed to Gaines by the Court and by Nassau County Health Care Corporation. (See Doc. No. 38.) Gaines nonetheless failed to provide the information necessary to complete the pretrial order by the third deadline of November 29, 2019, and has not filed his portion of the pretrial order to date.

On December 9, 2019, Magistrate Judge Brown issued a Report and Recommendation (“R&R”) recommending that this action be dismissed for failure to prosecute and failure to comply with court orders pursuant to Federal Rule of Civil Procedure 41(b). (R&R (Doc. No. 39).) Magistrate Judge Brown reminded the parties that, pursuant to Federal Rule of Civil Procedure 72(b), any objections to the R&R had to be filed with the Clerk of Court within fourteen days of service of the R&R. (R&R at 5.) The docket reflects that Magistrate Judge Brown’s R&R was served by defendant Nassau County Health Care Corporation upon plaintiff Gaines via overnight mail at Gaines’s current address on December 10, 2019. (Doc. No. 35, 40.) The time for the parties to file objections to the R&R has now expired and no party has filed an objection or requested an extension of time in which to do so.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, adopts the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007). Accordingly, it is hereby

ORDERED that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of Court is respectfully directed to enter judgment in favor of defendant Nassau County Health Care Corporation, to mail a copy of the judgment and this Memorandum and Order to the *pro se* plaintiff, to note the mailing on the docket, and to close this case.

SO ORDERED.

Dated: Brooklyn, New York  
*Jan 3* 2020

s/Roslynn R. Mauskopf

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ROSLYNN R. MAUSKOPF  
United States District Judge